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APR 21 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:

Thomas W. MEYER et al.

Application No. 09/389,942

Filed: September 3, 1999

For: PROCESS OF AND SYSTEM FOR
SEAMLESSLY EMBEDDING
EXECUTABLE PROGRAM CODE INTO
MEDIA FILE FORMATS SUCH AS Mp3
AND THE LIKE FOR EXECUTION BY
DIGITAL MEDIA PLAYER AND
VIEWING SYSTEMS

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.84(b)(2), filed February 05, 2004, requesting acceptance of color photographs.

The petition requests that the color photographs identified as figures 1A, 1B and 1C be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. § 1.84(b)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), three (3) sets of the color photographs in question where the color photographs must either be developed on double weight photographic paper or be permanently mounted on Bristol board, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"the file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition was filed with the required fee and three sets of color photographs on double weight photographic paper or permanently mounted on Bristol board. However, the specification failed to contain or amend to contain the language *"the file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."*

Accordingly, the petition is **DENIED**.

If the petitioner desires further review of this Decision, applicant should consider filing a Request for Reconsideration.

The application file is being forwarded to the Technology Center support staff for processing the Request for Continued Examination (RCE) dated April 02, 2004 and will then be forwarded to the Examiner for appropriate action.



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